

PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA

Project File Number, Description, and Location

GP03-03-03/GPT03-03-03, General Plan amendment to change the Land Use/Transportation Diagram designation for a 3.2-acre site from Mixed Use (25-150 DU/AC) (Tamien Station Area Planned Community) to Transit Corridor Residential (25+ DU/AC) and an associated text amendment to reflect the proposed land use changes in the Tamien Station Area Specific Plan and to allow the residential structures built along Lick Avenue to maintain a set back of no less than 5 feet (Tamien Station Area Planned Community), North side of Alma Avenue between Lick Avenue to the east and Highway 87 to the west. (ROEM Development Corporation, Owner, Barry Swenson Builder, Applicant). Council District: 3

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **Tuesday, March 4, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **Thursday, February 13, 2003** and ends on **Tuesday, March 4, 2003**.

A public hearing on the project described above is tentatively scheduled for **March 17, 2003 at 6:00 pm** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 180 W. San Carlos Street, and the Biblioteca Latinoamericana Branch Library, 921 S. 1st Street, San José, CA 95110 San Jose, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Lesley Xavier** at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: February 13, 2003

Deputy

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: General Plan amendment

PROJECT FILE NUMBER: GP03-03-03/GPT03-03-03

PROJECT DESCRIPTION: General Plan amendment to change the Land Use/Transportation Diagram designation from Mixed Use (25-150 DU/AC) (Tamien Station Area Planned Community) to Transit Corridor Residential (25+ DU/AC) and an associated text amendment to reflect the proposed land use changes in the Tamien Station Area Specific Plan and to allow the residential structures built along Lick Avenue to maintain a set back of no less than 5 feet (Tamien Station Area Planned Community).

PROJECT LOCATION & ASSESSORS PARCEL NO.: North side of Alma Avenue between Lick Avenue to the east and Highway 87 to the west. 434-13-016; 434-13-015

COUNCIL DISTRICT: 3

NAME OF APPLICANT: Barry Swenson Builder

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Gary Schoennauer, The Schoennauer Company
2066 Clarmar Way, San Jose, CA 95128
(408) 947-1234

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AESTHETICS

1. Urban Conservation Policy #2: The City should encourage new development which enhances the desirable qualities of the community and existing neighborhoods.
2. Urban Design Policy #1: The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.
3. Urban Design Policy #8: Design solutions should be considered in the development review process, which addresses security, aesthetics, and public safety.

BIOLOGICAL RESOURCES

4. Urban Forest Policy #2: Development projects should include the preservation of ordinance-sized and other significant trees. Any adverse affect on the health and longevity of native oaks, ordinance sized or other significant trees should be avoided through appropriate design measures and construction practices. When tree preservation is not feasible, the project should include appropriate tree replacement.

CULTURAL RESOURCES

5. Historic, Archeological, and Cultural Resources Policy #1: Because historically or archeologically significant sites, structures, and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.
6. Historic, Archeological, and Cultural Resources Policy #8: For proposed development sites which have been identified as archaeologically sensitive, the City should require investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.
7. Historic, Archeological, and Cultural Resources Policy #9: Recognizing that Native American burials may be encountered at unexpected locations, the City should impose a requirement on all development permits and tentative subdivision maps that upon discovery of such burials during construction, development activity will cease until professional archaeological examination and reburial in an appropriate manner is accomplished.

GEOLOGY AND SOILS

8. Hazards Policy #1: Development should only be permitted in those areas where potential to the health, safety, and welfare of the residents of the community can be mitigated to an acceptable level.
9. Soils and Geologic Conditions Policy #1: The City should require soils and geologic review of development proposals to asses such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion, and sedimentation in order to determine if these hazards can be adequately mitigated.
10. Earthquakes Policy #1: The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.

NOISE

11. Noise Policy #1: The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San José International Airport the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Tuesday, March 4, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$50 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: February 13, 2003

Deputy

Adopted on: _____

Deputy